

# DEFENSE EQUAL OPPORTUNITY MANAGEMENT INSTITUTE DIRECTORATE OF RESEARCH

## RACE AND THE MILITARY JUSTICE SYSTEM: DESIGN FOR A PROGRAM OF ACTION RESEARCH

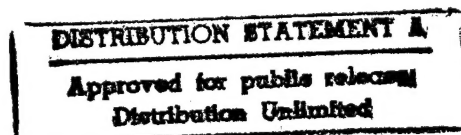
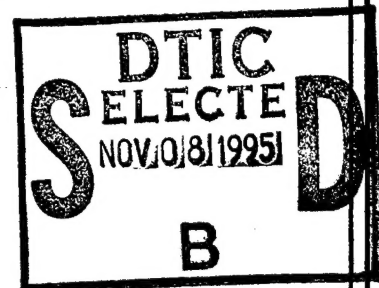
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Summer 1994



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REPORT DOCUMENTATION PAGE			Form Approved OMB No. 0704-0188	
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188), Washington, DC 20503.				
1. AGENCY USE ONLY (Leave blank)	2. REPORT DATE 30 September 94	3. REPORT TYPE AND DATES COVERED Final -- Jun - Aug 1994		
4. TITLE AND SUBTITLE  Race and the Military Justice System: Design for a Program of Action Research		5. FUNDING NUMBERS  GN00014-90-J-1422		
6. AUTHOR(S)  Dan Landis and Mickey R. Dansby				
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Directorate of Research Defense Equal Opportunity Management Institute Patrick AFB, FL 32925-3399		8. PERFORMING ORGANIZATION REPORT NUMBER  RSP-94-3		
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES) Office of Naval Research 800 N. Quincy Street Arlington, VA 22302		10. SPONSORING/MONITORING AGENCY REPORT NUMBER		
11. SUPPLEMENTARY NOTES				
12a. DISTRIBUTION/AVAILABILITY STATEMENT  Approved for public release; distribution unlimited.		12b. DISTRIBUTION CODE		
13. ABSTRACT (Maximum 200 words)  In this paper, we build on the work of Dansby and Knouse, reviewing their work and that of others in an attempt to understand the process of military delinquency. In so doing, we review the major theories of delinquency, relate those theories to the military situation, and then outline a series of studies designed to illuminate the possible existence of racial disparities in the UCMJ system. These studies focus on, at one end, the existence of racial disparities at the points in the system where command discretion is allowed and, at the other end, on developing and evaluating training procedures to help recruits, particularly African-Americans, adapt to the military environment.				
14. SUBJECT TERMS UCMA, Racial Disparities, Court-Martial, Non-Judical Punishment, Article 15, Military Delinquency, Intercultural Sensitizer, Theories of Criminal Behavior.		15. NUMBER OF PAGES 30		16. PRICE CODE
17. SECURITY CLASSIFICATION OF REPORT Unclassified	18. SECURITY CLASSIFICATION OF THIS PAGE Unclassified	19. SECURITY CLASSIFICATION OF ABSTRACT Unclassified	20. LIMITATION OF ABSTRACT Unlimited	

Race and the Military Justice System:  
Design for a Program of Action Research

**Executive Summary**

In this paper we review the existing literature and data bearing on the possible racial disparities in the administration of the military justice system. Sources of articles include both published and unpublished studies. Sources of data include the Military Equal Opportunity summaries reported each year by the services.

The main findings are:

1. African-Americans are over-represented in both the court-martial and the NJP systems. However, African-Americans are also over-represented among offender populations. Hence, it is not clear how much the UCMJ system adds to the disparities already present. Incidence rates for African-Americans have remained essentially level while overall numbers of incidents have severely decreased over the past five years.
2. An argument is made that differences in communication styles might well contribute to African-Americans being generally seen as disrespectful and unfit for the military life.
3. At some points in the system, African-Americans are disadvantaged; at others, it is whites who are relative to African-Americans.
4. Better designed research studies need to be done before it can be determined that changes need to be made in the UCMJ.

Recommendations:

1. A series of eight studies are proposed. Six of the studies examine aspects of the UCMJ (both court-martial and NJP) with improved methodology to determine the extent of racial disparities.
2. Two studies propose the development of a set of training materials directed at improving the adaptation of African-Americans to military life.

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**Abstract**

In this paper, we build on the work of Dansby and Knouse (e.g., Dansby, 1992; Knouse, 1993), reviewing their work and that of others in an attempt to understand the process of military delinquency. In so doing, we review the major theories of delinquency, relate those theories to the military situation, and then outline a series of studies designed to illuminate the possible existence of racial disparities in the UCMJ system. Those studies focus on, at one end, the existence of racial disparities at the points in the system where command discretion is allowed and, at the other end, on developing and evaluating training procedures to help recruits, particularly African-Americans, adapt to the military environment.

Race and the Military Justice System:

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Dan Landis and Mickey R. Dansby<sup>2</sup>  
Directorate of Research  
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The purposes of this document are fivefold:

1. To summarize the relevant literature on the origins of delinquent behavior
2. To relate that literature to the military situation
3. To summarize the data on the frequency of delinquent behavior in the military
4. To outline a series of studies designed to explore the reasons for delinquent behavior by military personnel and
5. To outline two programs which address the bases of military delinquency and attempt to reduce the representation of African-Americans among the delinquent population.

It is not our intention to exhaustively review the data on military delinquency. That has been done and done well (Bell & Holz, 1975; Dansby, 1992; Knouse, 1993; Walker, undated; Robinson, 1994). Our purpose is to use the existing data as a springboard to defining a set of action research studies that illuminate the *lacunae* in the research and work toward reducing any over-representation of African-Americans in the military criminal justice system.

These aims are not easily attained. In many cases, data bearing on the critical issues within the military do not exist. For progress to be made, those data will have to be gathered and analyzed. While these efforts will be expensive, programs based on faulty data are doomed to failure and we need to be careful not to fall into expensive *cul-de-sacs*, the fate of many poorly thought out social programs.

The studies which are proposed are designed to explore particularly interesting and potentially useful relationships between race and parts of the military criminal justice system. As such they fit rather well into the "tree" design suggested by Dansby (1992).

The rationale for the research efforts described in this document is well expressed by the following

The military justice system not only must be fair and impartial, but also must be perceived as being fair and impartial. Without a positive public opinion of the military justice system, the armed forces in general will not enjoy a positive public opinion; without a positive public opinion of the armed forces, the national will suffers; and without a strong national will, the United States cannot expect to succeed in a protracted war. (Lamb, 1992, p. 157).

While the projects described later in this document are designed to have pragmatic value, it is axiomatic that without a good grounding in theory, such projects will succeed only by chance. A good theory enables change in circumstances to be anticipated and allows modification of training to be timely as well as appropriate. Thus, the present studies are presented in the spirit of Action Research (Lewin, 1946).

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<sup>2</sup> Dr. Landis was Visiting Professor and Dr. Dansby Director when this paper was prepared.

## I: The process of involvement with the UCMJ.

No effort to examine possible racial disparities in the UCMJ can proceed without an understanding of the system. Fig. 1 summarizes the sequence of actions that comprise the UCMJ. The relative thickness of the various stages is meant to indicate the proportion of crimes that actually result in some sort of sanction. It is clear that there are many points at which the discretion of a commander or other official can affect the disposition of a crime or accused person. For example, the investigating agency can decide that no crime was committed, or the command can decide that no action is warranted, or that some sort of administrative action is appropriate, or, after charges are preferred, that a plea bargain will be offered to the accused. And, so on.

One approach to assessing the presence and extent of racial disparities may be called the composition assessment method. The assumption is that any change in the representation of a group in the population at any stage from the previous stage indicates differential treatment. So, if the ratio of African-American offenders to whites is, say 2:1, then if also the ratio remains constant through the various stages there is no disparity introduced by the UCMJ system. This is precisely the argument proffered by Wilbanks (1987) in his analysis of the civilian criminal justice system. This author, analyzing data from California and Pennsylvania, looked at the changes for different race/sex comparisons ("gaps") at various points (arrest, sent for prosecution, charges not dropped, convictions, conviction as felons, and incarcerated) in the process. The smallest change, for the California data, was the overall comparison of blacks to whites (19%), while the largest (164%) was between males and females. The next largest (68%) was between black males, 20-29, and similarly situated whites. The results were strikingly different for Pennsylvania, except for the male/female comparison. For the Keystone state, the comparisons favored the black offenders. Wilbanks (1987) interpreted these findings as indicating that disparities are not endemic to the system, but rather are locale bound and may even be confined to particular judicial districts. A closer inspection of Wilbank's data would suggest just the opposite conclusion. Although there is a general increase in the black/white ratio across all crimes in California, that enhancement occurs only for violent crimes in Pennsylvania. It is precisely these types of crimes that are likely to be most threatening to a white middle class. Further, the Pennsylvania data could be interpreted to indicate that the police are overly efficient in producing charges which are later reduced or dropped as the case is processed. Despite interpretive problems, these analyses are troubling to those who are convinced that the criminal justice system is everywhere, and irretrievably, racially biased.

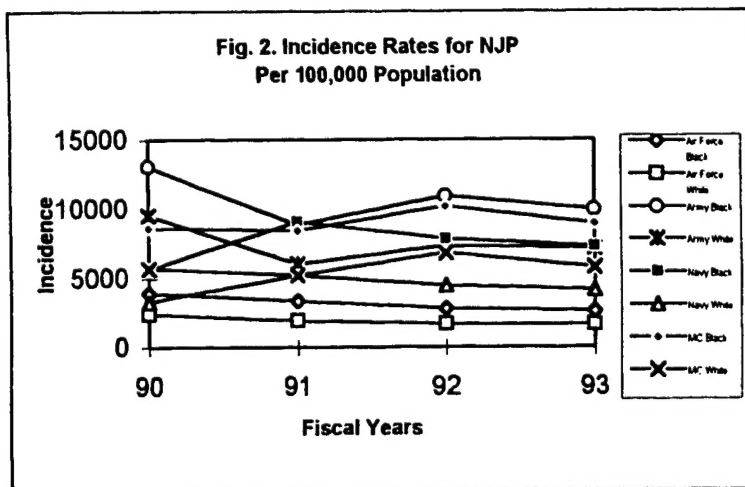
The analyses described above and those by Connelly (1993), described later in this document, are based on cross-sectional data. As such they may give a distorted picture of any race effects that might exist. To take an example. Suppose that of 50 people investigated, 40 are African-American and 10 are White. 30 of the African-Americans and 2 of the Whites are subsequently arrested and charged. Using the Willbanks approach, the proportion of those investigated who are Black is .80, the proportion of those arrested being black is .93, a difference of .13. This assumes that the probability at each stage is independent of every other stage, something that is unlikely. Taking the same data, we start at the second stage (arrests). The proportion of arrested African-Americans who were investigated is .75 (30/40); the comparable proportion for Whites is .20 (2/10). Thus, African-Americans are 3.75 times (.75/.20) more likely to be arrested once they have been investigated. Such a longitudinal conditional probability approach would seem to reflect reality better than one which assumes independence. Later, we will propose a study (Study I, below) which uses a longitudinal approach to analyzing disparities.

The Wilbanks analyses are also confined to the civilian sector; to our knowledge comparable examinations have not been done in the UCMJ. One reason is the issue of importance. Given that the raw rates are dropping steeply, there may be little interest on the part of the military leadership to assign such research a high priority. Further, as the drawdown proceeds, it is likely that a reduction in accessions will be accompanied by a raising of the AFQT scores. If that occurs, as it has been occurring over the past decade, then it may be expected that the military delinquency rates will fall even further. These analyses suggest that in addition to looking at the overall disparities in the system, we might well want to examine

further some particular points in the process. The following are presented as points that would seem to be particularly salient:

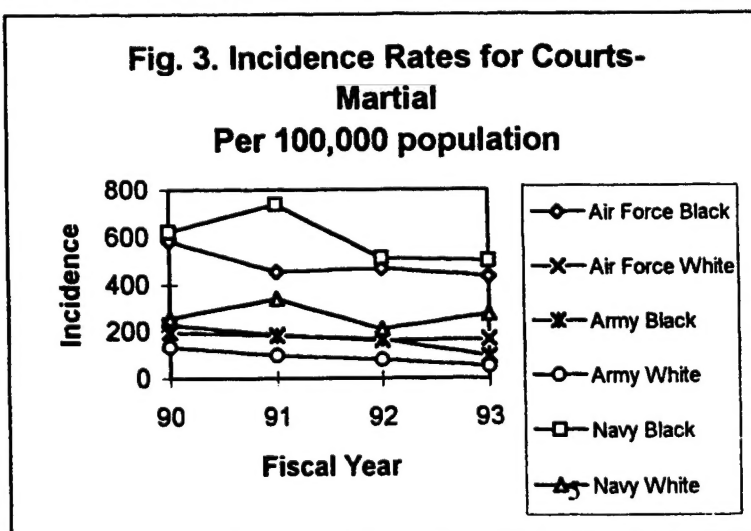
1. Background factors--indexed by the use of the moral waiver and AFQT scores.
2. Socialization into the military, indexed by the acceptance and identification with the norms and roles of a military setting.
3. Investigation of a possible violation--indexed by the attitudes of the military police and the decision to file or not file charges. The discretionary use of diversionary programs would fall into this stage.
4. The decision to proceed with an Article 15 or Court-Martial charge versus no charge at all.
5. If the decision is to proceed with a court-martial, the decision as to what level (e.g., Summary, General or Special).
6. The decision to offer and/or accept a plea bargain leading to a reduced sentence or charges.
7. Finally, the actual length and type of sentence.

The research strategy described later in this paper attempts to probe the processes involved in several of the stages. While there is evidence in the civilian sector (e.g., Petersilla, 1983; Myers, 1987; Heaney, 1991) that African-Americans tend to receive longer sentences than equivalent whites, the reasons for this disparity may be rooted in the use of the plea bargain system rather than in the discretion of the judges. In any case, given the cumulative process for which the sentence is only the end of a complex series of events, our time is better spent on the antecedents rather than on consequences.



Despite an overall sharp drop in personnel contacts with the military justice system, the decrease mainly affects whites with African-Americans either holding steady or slightly increasing. The decade ending in 1991 saw an overall decrease in Army Courts-Martial of 74%, in NJP of 66.45%, in bad conduct discharges of 79.46% and the total number of offenders dropped by 71.54%. Though the numbers of African-American offenders dropped dramatically, the relative

proportion of African-American offenders increased in comparison to white offenders. During the last half of the decade (1986-91), the percentage of courts martial accounted for by whites in the Army decreased by 7% (54.3 to 47.3%), while African-Americans increased by 6.2%.



in compared to their numbers in the service, increased from 39.2 to 45.4. A similar pattern emerges with regard to NJP's; the white percentage dropped by 4.1% while the black increased by 3.5%. The proportion of violent crimes increased for African-Americans but decreased for whites. The offender rate for African-Americans increased while the white rate decreased. Thus,



much of the disparity seen above can be attributed to differences in the rate of offending (Robinson, 1993). Though the above figures relate to the Army, similar data can be found for the other services (Walker, undated).

The data on decrease in UCMJ actions are somewhat misleading since a severe drawdown in the size of each service has been also occurring over the same time period. More telling is the incidence rate by race for each service (Figs 2 and 3). These data suggest quite obvious service and racial differences, as well as essentially flat curves from 1991 on. African-Americans in all services have a higher incidence rate than whites, and the Army has the highest rate for NJPs, while the Navy has the highest for Courts-Martial. The relatively low position in the Air Force may be due to the higher accession standards in use by that service.

At the same time, other considerations may force the military to increase the priority of reducing the military delinquency rates among African-Americans. As the military reductions continue, the services will be more selective in recruiting and average entrance scores will increase. As the AFQT scores increase the military will have to more heavily recruit among those African-Americans with suitable scores in order to maintain the current proportions in the various services. Indeed, those services which are below the population's fraction will have to recruit even more intensely. If, as has been reported, fully a quarter of African-American young men (McAllister, 1990; also, 42% in Washington, DC. according to one study. Miller, 1992) are at any given time involved with the criminal justice system, the remaining three quarters provide the population from which the military must recruit<sup>3</sup>. It may be that in order to maintain the current ratios, the military will resort more and more to the use of the moral waiver in order to meet accession goals.

The above data can only be made sensible when we understand why people engage in criminal acts. In other words, we need a theory of criminal behavior, a task that, fortunately or unfortunately, has been the Socratic gadfly of sociologists and criminologists for at least two centuries. The major current theories are described in the next section.

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<sup>3</sup> These figures are even more depressing when it is noted that there are about 1/3 more young black men between the ages of 20 and 29 who are under the control of the criminal justice system (incarcerated, on parole, or on probation) than were in college in 1986 (609,690 vs. 426,000). (Reed, Austin, Clayton, Jones, Krisberg, Locke, Pickney, Radelet, & Welsh, 1993).



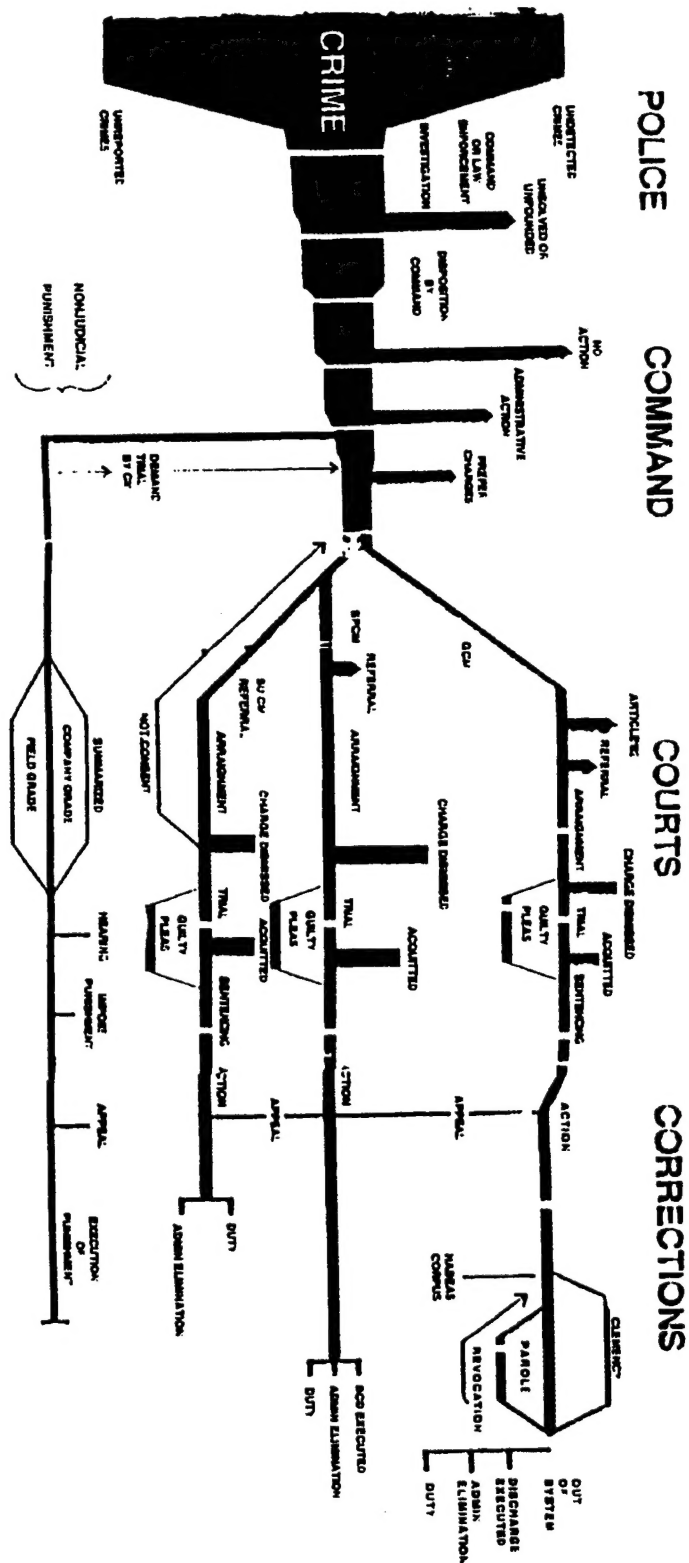


Fig. 1. The military justice system

Source: HDAR, U.S. Army  
Adapted from: President's Commission on Law Enforcement (1967)

# I. Why do people engage in crime: theoretical perspectives.

Over the past hundred years sociologists and criminologists, as well as others, have developed a plethora of theories to explain delinquent behavior. Most of these theories have been shown to have limited predictive power and hence are unlikely to be useful as guides in any project that hopes to have pragmatic as well as heuristic value. The major theories have been variants of subculture deviancy, strain, blocked opportunities, and rational choice theories. Rational choice theories find psychological analogues in attribution models, while subculture deviancy is most similar to theories of modeling.

Subculture deviancy implies that African-Americans are more likely than whites to commit crimes due to acquired negative and hostile view of the larger society. For some theorists, this view of society is intimately tied to the pressure of peers (e.g., Briar & Piliavin, 1965), while others (e.g., Short & Strodtbeck, 1965) see such perceptions as due to the need to maintain status with the peers. A more direct position is that of Wilson & Herrnstein (1985) who point to the lingering and present effects of racism, which has left a legacy of anger which is always present in any African-American, but particularly in males. For the African-American male, the history of slavery and segregation has:

...led to a festering growth of anger that could not safely be expressed and so had to be hidden for many decades behind the mask of docility. This rage was especially intense among black men because of the unwillingness of white society to allow them to exhibit their manhood in conventional ways--by marrying, owning property, earning a living, and defending themselves physically against attacks and insults...Accumulated resentment and the preoccupation with sublimating normal desires to establish one's manhood and express one's physical capacities lead to a reduction in the internalization of rules against crime, so that the value of a crime is increased by the (relative) lack of a conscience decrement. (Wilson & Herrnstein, 1985. pp. 481-483)

There is a strong and weak version of this approach; both assume a set of norms and roles which are at variance with the prevailing demands, and which are visited upon the current generation. The strong version holds that the result of generations of oppression has been a genetic predisposition (presumably related to inherited lower level of intellectual ability)<sup>4</sup> for a large part of the African-American population to engage in anti-social acts (Mednick & Christiansen, 1977; Kamin, 1986). The weak version leaves intact the gene pool but relies on defective social structures (female centered households, poverty, etc.) as the predisposers to delinquency. An implication of both versions of the theory is that crime does not hold the same relationship to self-worth for African-Americans as it does for whites. Lacking the norms that denigrate illegal activity, the African-American would find his self-worth defined to the extent that he was engaged in actions that the whites would find beyond the pale. Thus, Harris & Lewis (1974) found that young African-American inmates of a correctional institution had levels of self-esteem which were directly related to the extent that they identified themselves as criminals. The relationship was reversed for matched white inmates.

Cultural deviancy theories assume that delinquents are passive actors with little or no control over their actions. Such theories would also take a jaundiced view of short-term attempts to reduce the amount of African-American involvement in criminal behavior. The behavior is either established at birth or shortly thereafter and short of massive societal programs over several generations, there is little that can be done. These theories gain their power from the obvious disenchantment of the American population with the social programs of the past half century and with the concomitant rising fear of crime, despite statistics which indicate that such emotion is largely unfounded. Nevertheless, the weak version, which calls attention to the shameful past of racial injustice in this country, has merit as a background for other theories.

<sup>4</sup> The recent book *The Bell-Shaped Curve* (Murray & Herrnstein, 1994) is latest manifestation of this orientation.

Strain theories generally assert that the economic opportunities available to African-Americans are meager compared to those given to whites (Joe, 1987). This differentiation is presumably due to an inequitable distribution of services and wealth. The frustration at the lack of economic opportunity leads to the tendency to engage in criminal acts. Since the distribution of wealth disfavors African-Americans, relatively more of that group will engage in crime than whites. Some versions (e.g., Cloward & Ohlin, 1960) argue that crime results from an inability to escape from aversive social conditions. African-Americans, this approach argues, are not predisposed to crime, they simply are more likely to find themselves in inescapable aversive conditions. These theories would appear to suggest that when the inequitable distribution of benefits is eliminated, racial disparities in the commission of criminal acts will also cease. In times of need, then, crime increases; in times of plenty, crime decreases. However, others (e.g., Philips & Votey, 1988) have provided data which show just the opposite, which can be called the Willy Sutton<sup>5</sup> effect. Clearly some additions must be made to make strain theory a reasonable explanation for not only black but all crime.

Blocked opportunity theories attempt to combine features of cultural deviancy and strain theories. These theorists have argued that strain theory does not fully explain deviant behavior because it gives insufficient attention to the role of moral norms or conscience. Cloward & Ohlin (1960) have suggested that strain theory assumes that criminals show little, if any, acceptance of the idea that their acts are morally reprehensible. On the contrary, they suggest, most criminals are outraged when they are the victims of crime and do, indeed, accept societal norms as being valid. Engaging in criminal behavior leads to guilt and an eventual termination of the behavior unless the validity of societal norms is negated or substituted. This theory finds the roots of crime in the juvenile gang. The gang's norms replace those of society at large. When opportunities are provided (e.g., jobs) the rate of engagement in crime decreases. Norm replacement occurs when the person believes that his failure to achieve is based on an unjust social organization.

The most significant step in the withdrawal of sentiments supporting the legitimacy of conventional norms is the attributions of the cause of failure to the social order rather than oneself. (Cloward & Ohlin, 1960, p. 111)

Although blocked opportunity theory has fallen out of favor in recent years (Kornhauser, 1978; Lafree, Drass, & O'Day, 1992), part of the reason may be a misinterpretation of the Cloward & Olin (1960) formulation. Cloward & Olin suggested that the theory should hold most strongly with lower class minority males and least with upper class white males, a hypothesis that found support in the work of Simons & Gray (1989). However, Lafree, Drass, & O'Day (1992) found that blocked opportunity predicted well for whites but not for African-Americans. It appears that this theory lacks unequivocal empirical support.

Rational choice theory (Philips & Votey, 1988), assumes that the decision to engage in criminal acts is a rational one based on an assessment of the values to be achieved and the consequences of those acts. The theory uses decision models drawn from economics and makes a number of predictions that are opposite to those drawn by the other conjectures. However, the results of the research using individual choice models (e.g., Philips & Votey, 1988) have not been noteworthy. A labor force analysis relating the participation in crime to employment status was non-significant; race did not play a significant part in either the decision to be employed or the decision to engage in crime. (McGahey, 1988).

Even though the individual choice analysis has shown disappointing results in explaining participation in crime using national survey samples, a choice analysis may be useful in defining the psychological propensity to engage in criminal activity. The attitude-behavior theories of Fishbein (e.g., Ajzen & Fishbein, 1980) and Triandis (1976) have been shown to predict rather well a number of non-criminal social activities. These approaches, which use the subjective weighting of expected outcomes and the

<sup>5</sup> When asked why he robbed banks, Sutton replied, "That where all the money is!"

value of those outcomes, would seem to have applicability, unless, of course, engaging in crime is something other than a social activity, which would seem to be unlikely. Certainly, more exploration along these lines would be justified.

Each of the above theories finds support when the reasons that offenders give for delinquent behavior are examined (Agnew, 1990). Agnew found that the rational choice theory is most applicable "...to the explanation of property offenses...and drug offenses." (p. 289). Strain theory reasons are found in explanations of violent crime, vandalism and running away.

All of the above theories deal with the offender's more or less likely criminal behavior. Little attention is given to the possibly interactive role of social authority figures. Philips & Votley (1988) attributed much of their results to the influence of norm setters such as family and religion. These two factors predicted well the probability of being employed and not dropping out of school, but did not predict the likelihood of engaging in criminal activity. Myers (1987) and Horne (1988) both found that as the proportion of African-Americans increased in a community (a Marine unit in Horne's study), the length of sentences for minorities decreased (Myers) as well as a reduction in charges being brought (Horne). These results are supportive of the application of social categorization theory.

Social categorization theory (e.g., Miller & Brewer, 1986) would suggest that when African-Americans are rare in a unit, they are more easily categorized as the "outgroup." As members of the outgroup, they are more likely to be seen by the majority as having negative characteristics. Those negative attributions would lead, we suspect, to a disposition to see African-Americans as being more likely to be guilty of offenses, including disrespect to an officer.

The use of "cognitive" theories has a parallel in more recent analyses of prejudicial behavior such as the rational bias approach of Larwood and her colleagues (Larwood, Gutek, & Gattiker, 1984; Larwood & Gattiker, 1985). Rational bias proposes that managers (and, by extension, others) do not perform discriminatory acts out of personal bias (though they may be racist), but out of a weighing of the likely consequences of such behavior. When superiors seem to support exclusionary policies, the manager will act in a discriminatory fashion simply because that is in his/her best interest. However, a recent study (Ford, 1994) was unable to find support for the main assumption of the Larwood theory: that personal prejudice and discriminatory behavior are essentially orthogonal.

## II: Relationship of theories of criminality to military delinquency:

The military is a social organization not fundamentally different from other structures in society. This similarity becomes even more salient as the military moves from an institutional to an occupational structure (Moskos, 1988). It has prescribed roles and norms which govern how members interact with one another. It also has rules and regulations which determine how a person who violates those roles and norms is treated. Like the civilian world, those regulations have varying levels of severity and specificity. Hence, many of the theories of criminal behavior developed in the civilian sector should have applicability to the military setting.

The theory of subcultural deviance would seem to have limited explanatory power, particularly in an era of rising AFQT scores and smaller numbers of accessions. However, the theory suggests that the deviance affects all African-Americans who exist in a fundamentally racist society. These effects, be they genetically or socially transmitted, are part of the psychology of all African-American men, waiting to be activated when the circumstances are right. From a research standpoint, the "weak" version of this theory devolves to a search for personality and social background correlates of military delinquent behavior. This approach formed the basis for much of the research carried out by the military into criminal activity. The solution, for the adherents of this theory, is two fold: First, improved selection procedures to weed out those who are likely to engage in delinquent activities; second, a massive effort to root out all forms of discrimination to use the Supreme Court's phrase, "root and branch." The later solution has been military

policy since at least 1948 (Day, 1983; Dansby, in press); the former has been mainly an exercise in futility.

From the end of World War II until the middle 1970's, the Army Research Institute had an active program attempting to develop a method of predicting who would become a military delinquent (Bell & Holz, 1975; Bauer, Stout, & Holz, 1976). Personality and social background variables (which would come under the subcultural deviancy model) were a focus of study. Unfortunately, these variables did not prove to have much predictive power, accounting for only 16.6% of the variance in self-reporting AWOL behavior (Bauer, Stout, & Holz, 1976). The use of these measures to screen would produce a significant number of false positives, eliminating "...large numbers of good men" (Bell & Holz, 1975). An interesting, but uninvestigated finding was that "(r)esults of the field experiments indicated that identifying a man as a discipline risk actually increased the chances of becoming one" (Bell & Holz, 1975). Unfortunately, these studies did not partial out any race effects, so their findings may be of limited utility for our purposes.<sup>6</sup> The ARI studies did not include pre-service offender status, which would be an indirect indicator of subculture deviancy. More recent studies sponsored by the Office of Accession Policy, Office of the Assistant Secretary of Defense have looked at preservice offender records as predictors of inservice delinquency (e.g., Flyer, 1990; Flyer & Curran, 1993).

Although fewer African-Americans, proportionately, compared to all other ethnic groups come into the service with moral waivers, they are more likely to be found to have an FBI record (Flyer, 1990). Further, once identified with a record, blacks (particularly women) are more likely than non-blacks within the first four years to be found unsuitable and discharged. However, since not all recruits found to have a FBI record (but not a moral waiver) are refused induction, there is some sort of a discretionary decision process. Given that a large number of young African-Americans have had some contact with the criminal justice system and, also given that there is discretion in the retention decision, they may well believe that it is best to conceal previous convictions. A discretionary decision to retain or not retain a given recruit may also be subject to possible racial effects. For example, it possible that a given offense committed by a black may be seen as more serious than the same offense committed by a non-white.

So, in order to understand the offending person, we have to start at the point of accession, recognizing that there is little that can be done by the military prior to that point. One solution is, of course, to tighten the number of moral waivers and improve the reporting system<sup>7</sup>. However, given the large numbers of African-American men who come in contact with the criminal justice system (25 % or more), such a tightening may result in a reduction of the number of minorities in the service. A second procedure might be to raise even more the minimum AFQT score for accession. Again, given the tendency for African-American men to score somewhat lower on the AFQT due, partially, to poor schooling, the end result might well be a degrading of the minority fraction in the service.

An extension of the subcultural deviance theory--the theory of different communication styles--does hold some promise. This variant would agree with both the strong and weak theories that African-American men come to the military with cultural characteristics, either learned or inherited, that hinder their success as armed forces personnel. But, as learned characteristics, these styles can be unlearned and others can learn their significance to the African-American. Hence, improved communication is possible with salutary effects on the adjustment of African-Americans to the military. This approach will be described in more detail in a later section.

<sup>6</sup> The failure to investigate subgroup differences may reflect the *Zeitgeist* of the times. During the 1960s and 1970s, the assumption often was that to report racial differences was a form of "blaming the victim" and, hence, would hinder rather than help the struggle for equal opportunity. This would be particularly true when dealing with military delinquency, where the fear might be that such differences would be used to justify restrictive accession policies.

<sup>7</sup> For example, Flyer & Curran, 1993 report that only 40% of Illinois recruits with state offender records had their names reported to the FBI.



For strain theorists, there is little military applicability since presumably the same opportunities and pay is available on a color-blind basis. However, these theorists would point to the many ways in which opportunities are potentially differentially allocated. Success in the military depends on at least two sets of events: career enhancing professional education and assignments. The route upward is through these two gates. Occupational demographics indicate that minorities are disproportionately represented in the administrative and supply classifications. Across DOD, 45.5% of African-American Officers and 36.5% of African-American enlisted personnel are in these classifications; the comparable figures for whites are 26.7% and 20.4% , respectively. (DEOMI, 1994) These classifications are rarely considered to be good career moves. Furthermore, it is these jobs that are most likely to be affected by any reduction in force levels. Hence, many African-American men will find themselves in an aversive situation that they can neither avoid nor control. Strain theory would then predict that under these circumstances, a disproportionate number of African-Americans would find property crimes to be attractive.

Blocked opportunity theories would predict an increase in crimes committed by African-Americans when the roles and norms of the military cease to be seen as legitimate. For many African-Americans, such a point occurs fairly early in their military careers when the norms of their previous environment seem at variance with those now being imposed. Until the new norms are accepted, such persons are at risk, according to this theory, far more than is the case at later points in their service. And, indeed, there are indications in the work of Edwards & Knouse (1990 ) and Edwards & Newell (1994) that the prediction seems to have some validity.

Individual choice theories, whether of sociological or psychological origin, tend to assume a level of rationality as well as a categorization of crime as work. These theories assert that as the potential rewards from illegal activity increase as a function of the overall economic situation, people (not just African-Americans) will be disposed to engage in criminal activity. As property values increase, illegal activity is more profitable. The only thing blocking an increase in such activity is the perceived seriousness of the penalties. For the military, these theories would suggest that if the probability of getting apprehended and convicted is relatively low and the value (payoff) of the activity is high, then criminal activity will increase. So, these approaches would place almost exclusive emphasis on making the military justice system (including NJPs) fair and swift. At the same time, emphasis should be placed on inculcating values and norms which are counter to the rewards of criminal activity. In economic terms, the expected utility of engaging in crime will be low.

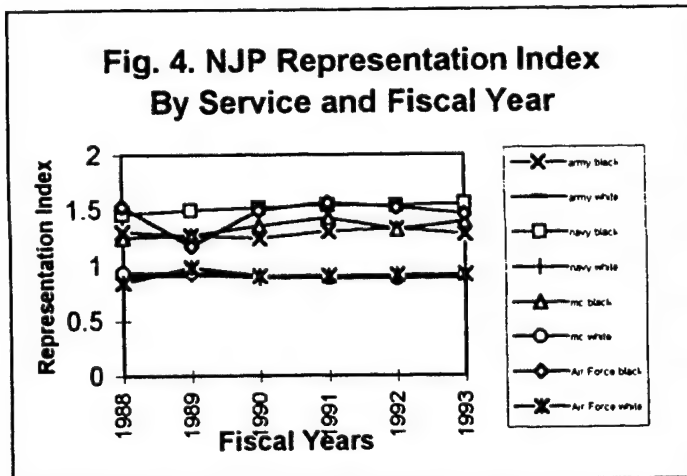
Cognitive theories (e.g., social categorization, attitude-behavior relation models, attribution theories) have certain similarities to the individual choice perspectives. Both types of theories assume a rational being who weighs the expected payoff of any social activity. They differ in that most individual choice theories assume that criminal activity is similar to work while cognitive theories do not assume such an identity. Illegal activity may be work or it may be leisure. All social activity shares similar antecedents. While economic theories are usually restricted to crimes for money, cognitive theories would include crimes against people (e.g., assault, rape, incest, etc.). These theories would suggest that the process by which one is led to commit illegal acts is a joint effort of the system's representatives (e.g., officers and NCOs) and the military person. Social comparison theories would require the presence of a significant representation of African-Americans in authority and role modeling positions. These persons would have to be able to understand and accept the distinct communications styles of the enlistee. Attribution theories would suggest that both the enlistee and the authority figures need to have an accurate picture of each other's motivations. Authority must be seen as legitimate and not based on whim. Finally, the attitude-behavior relations models would point to the affect associated with the act (does it feel good), the appropriateness of the behavior (is stealing something that I think I should do), and the perceived consequences of that act. Within the military setting, this latter perspective would suggest training approaches which focus on increasing the perceived negative outcomes, enlarging the role perceptions such that the behavior is no longer considered appropriate by the person or his/her peers, and substituting other activities which are pleasurable.

To sum up this section. It is apparent that most modern theories of criminality have some applicability to the military setting. Each theory tends to focus on different parts of the puzzle or the tree (Dansby, 1992). And, the boundaries of each theory with each of the others is not as clear as we could wish. Hence, discussions over which theory is correct are likely to be fruitless in the military setting.

### III: Military delinquency:

Over the past six years (1988-1993), African-Americans were over-represented in NJP (by about 20-40% depending on the branch of service) and Courts-Martial (by as much as up to 100%). Furthermore, when we consider the type of crime (Army only), African-Americans were also over-represented. The highest amount of over-representation occurs with regard to all types of violent crimes. (Figures 4, 5, and 6 display these results). Disaggregating the offense data provides some further interesting findings.

Within the Army, during the years 1982-1987, Flyer (1993) has reported offense incidence data<sup>8</sup> separately for blacks and whites, as well as men and women. For men, blacks had an incidence of over twice that for whites for assault (7.23% vs. 2.85%, respectively). Indeed, blacks had higher incidences of



larceny (4.66% vs. 2.88%), burglary (.68% vs. .38%), sexual conduct (.51% vs. .35%), with the largest differences in charges of carnal knowledge and sodomy, but not homosexuality), failure to pay just debts (.21% vs. .09%), fraud (1.28% vs. .64%) and military conduct (2.70% vs. 2.30%). Whites had higher levels of drunkenness than blacks (5.53% vs. 4.55%, respectively), destruction of property (.96% vs. .87%), suicide-related (.16% vs. .10%) and desertion (1.15% vs. 1.02%).

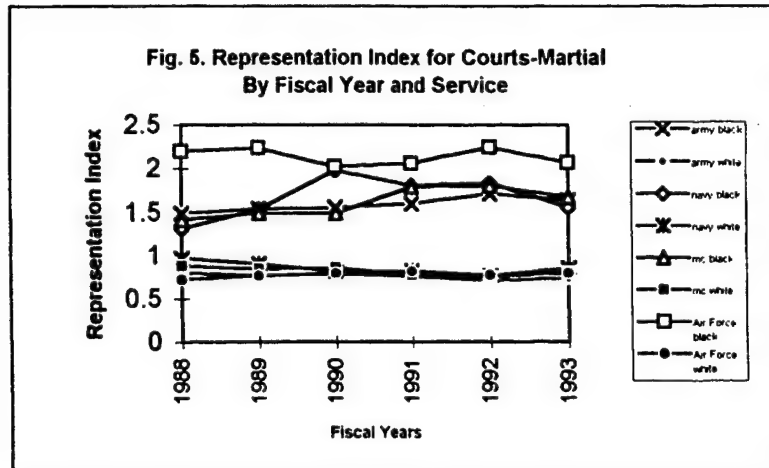
Approximately, 22% of Army recruits received unsuitability discharges (Flyer,

1993). There is a very slight difference, favoring non-black men over blacks. There is a major difference, however, between non-black women when compared to blacks (21.5% vs. 12.6%) (Flyer, 1993). Unfortunately, Flyer (1993) does not break down the female/type of offense data by race so we have little clue as to the reasons for the reported race/sex difference. These findings are not consistent with either Knouse (1993) or Edwards & Newell (1994). Both of these authors found that African-Americans tended to get into difficulties early in their military careers. The discrepancy may be resolved by noting that Knouse used a sample of incarcerated inmates while Flyer used the population of all recruits over a set period of time. Similarly, Edwards & Newell used a sample functionally comparable to Knouse's, namely, people who had been discharged for misconduct.

<sup>8</sup> It is important to note that these data are based on findings of "probable cause," not convictions. Hence, they are a function of the professionalism and perceptions of the investigating officers. These data, if accurate, could be used for a composition analysis of the UCMJ.

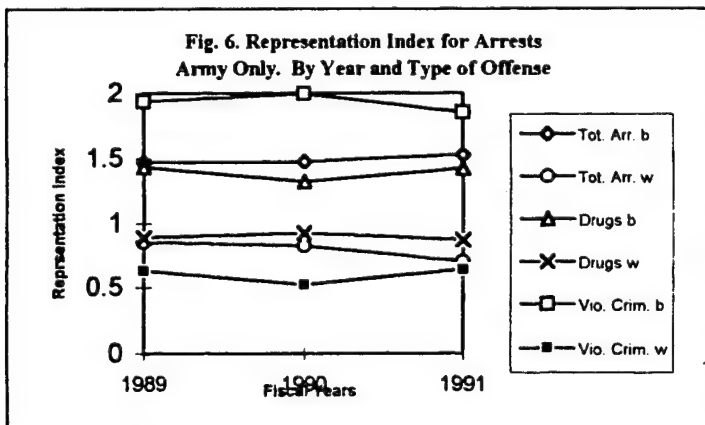


In terms of how people judge their own situation, social comparison theory would point us to the relevant



comparison group. For African-Americans, that group is similarly situated whites. Figs. 7 and 8 display the ratios between African-American and white incidence proportions, adjusted to a common base. These data suggest that African-Americans are between 1.4 and 1.9 times more likely to receive an NJP than whites and the ratio is highest in the Navy and lowest in the Army. For Courts-Martial, the picture is somewhat different. Here,

African-Americans are between 1.5 and 2.8 times more likely to receive a Court-Martial and the ratio is highest in the Air Force and lowest (in 1993) in the Navy and Army. Closer inspection of the data reveals, however, that the variance is due to two sources, one of which is much larger than the other. First, there is a small variation in the African-American proportion across the services; second, there is a much higher variation in the white proportion across the services. Hence, the ratio is due less to high rates of incidences for African-Americans than to low rates for whites.

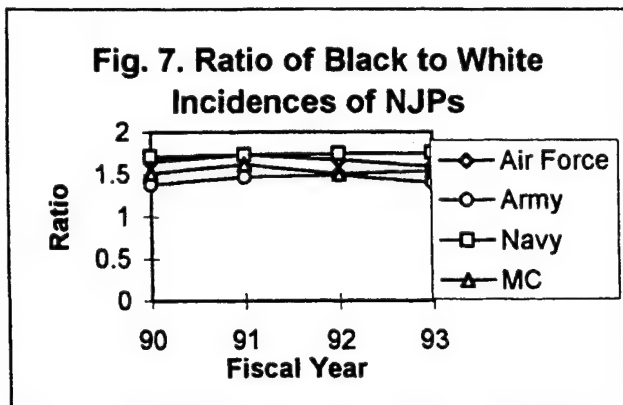


There is also some suggestion that blacks receive longer sentences when convicted of crimes. However, this may not be because court-martial panels level more severe penalties, but because African-Americans have less faith in the system. Whites are far more likely to "cop a plea" than African-Americans. In one sample (Robinson, 1993; Connelly, 1993), using all Courts-Martial for assault conducted between 1986 and 1991 in the Army, 69% of whites pleaded guilty and waived the right to an Article 32 investigation, whereas only

51% of blacks made the same decision. This resulted in 15% of the whites having charges reduced, while the same decrease occurred to only 7% of the black offenders. These data, if accurate, would suggest perhaps that whites are more aware of the reality of how the justice system operates<sup>9</sup>. It is interesting to note that Myers (1987) found that when there was a relatively high inequality (either in terms of population or income) in a county between African-Americans and whites, the sentencing decisions tended to be harsher against people with few resources. However, when there was both income inequality and relatively large African-American populations, the outcomes disfavored whites, rather than Blacks.

<sup>9</sup> We are referring here to the phenomenon of the "jury tag," which is a tendency to give a more severe sentence to offenders who insist on a full trial, particularly one involving a jury. In addition the effects noted above, Connelly (1993) also reported that White offenders will more often enter a plea of guilty, while Blacks more often request a full jury trial which includes enlisted personnel (a right given under the UCMJ).

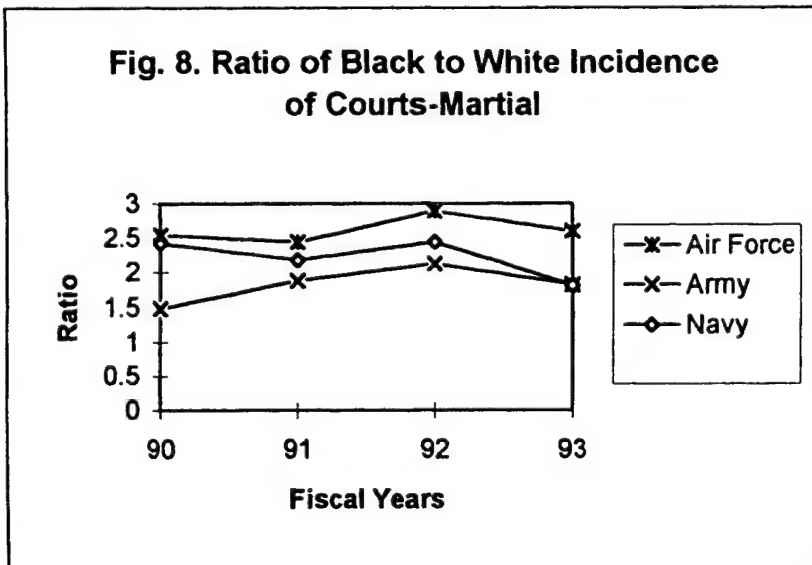
Placed in the context of the military, this seems most similar to the lower disparity in NJP and Courts-Martial that we have found in the Army as compared with other services.



The data summarized above, together with an extension of the Wilbanks (1987) analysis to the military situation as well as most of the theories of delinquency, suggests that merely looking at the court-martial system is unlikely to produce much useful information or insights into causative factors. And, it is to those causative factors that we must look if we are to not only reduce the ratio of African-Americans to whites in treatment by the UCMJ, but also the total number of personnel of any ethnic group. The Courts-Martial are simply the tag end of a long

process that begins prior the service person's accession into the service. The data reported above on plea bargains highlight the complexity of the issue, which belies overly hasty conclusions as to causation.

Even before the plea bargaining there is a tangled skein of events, as described in an earlier section of this report, beginning (as far as the military justice system is concerned) with an investigation of an incident, leading through the decision to prefer charges and what violations to be charged and ending with the determination to offer a plea to a lesser charge or demand a full hearing.



With regard to the investigation, it is possible that the investigating officer may differentially perceive offenses when committed by a black than when those offenses are done by whites. Such differential perception has been demonstrated in the civilian sector, but research in the military is spotty. But, the investigation itself may be at the end of a series of events. Military police may also tend to stop African-Americans more often than whites as do their civilian counterparts (Norris, Fielding, Kemp, & Fielding, 1992).

Many African-Americans, particularly those from ghetto or lower class backgrounds have developed a style of interaction which is quite different from that used by whites or even middle-class African-Americans. It is a style marked by confrontation and emotionalism. For whites such a style is often interpreted as being aggressive. The white style, conversely, is interpreted by African-Americans as being evasive and duplicitous. In any case, the black style may well be interpreted as being anti-authoritarian

and, hence, not to be tolerated in the military setting. This initial interaction may well be the well spring from which later, more serious, infractions develop. It is to examining those interactions that we now turn.

#### IV: African-American communication styles and relevance to military delinquency.

Hecht, Collier, and Ribeau (1993) note that the African-American communication style differs significantly from that typically used by whites. Differences are apparent in the dimensions of sharing, uniqueness, positivity, realism, and assertiveness. Similar differences have been suggested by Rose (1982/1983) and White and Parham (1990). The differences are particularly problematic in a military situation where clear transmission of verbal messages is of high priority. Indeed some of these differences may be perceived as threatening to superiors thus setting the stage for some sort of sanctions.

Sharing refers to an endorsement of a sense of group solidarity or collectivism (Hofstede, 1980; Triandis, et al., 1990). This is a style that appears in various forms, one of which is touching (African-Americans tend to touch each other more than whites touch when communicating; Halberstadt, 1985; Smith, Willis, & Grier, 1980; Willis, Reeves, & Buchanan, 1976; Blubaugh & Pennington, 1976). Other aspects of touching include distance (African-Americans tend to establish closer distances than whites), relationship intimacy (African-Americans develop closer, more intimate relationships and tend to use more eye-contact when talking than when listening, the opposite pattern used by whites).

Uniqueness is, to some extent the opposite of sharing. Sharing focuses on the importance of the group, uniqueness on the individual. This includes ritualistic boasting which calls attention to the individual's abilities, both physical, sexual, and intellectual (Edwards & Seinkewicz, 1990).

African-Americans place a high value on being positive which includes a sense of being alive, having emotional vitality, and openness of feelings (White & Parham, 1990). This expressive life style is designed to be attractive and manipulative of others, so as to disarm, and thus allow the individual to survive in a hostile world (Rainwater, 1967). This emotionality content of life leads to "having a good time" being a powerful driver in life. In the military setting, such a style may be perceived as lack of professionalism and seriousness.

The emphasis on being positive exists side-by-side with a focus on realism expressed as "telling it like it is!" The bluntness and emotionalism that is implied is often seen by whites as aggressivity (Kochman, 1981). Realism is related to assertiveness, which is "behavior that stands up for and tries to achieve personal rights without damaging others" (Hecht, Collier, & Ribeau, 1993, p.104).

Assertiveness manifests itself in several behaviors: loud strong voice, angry verbal disputes, threats, insults, manner of dress, and use of slang (Cheeck, 1976). The old verbal play of "playing the dozens" or "signifying monkey" are examples of this style. These games have been replaced with rap music which often has a distinctly confrontational aspect. Since many of these behaviors are not in the repertoire of typical public communications behaviors for whites, they are often seen as hostile and a precursor to violence.

The differences described above might well lead to disagreements becoming confrontational rapidly, particularly in the early post accession period. Robinson (1993) found that African-Americans more than whites tended to quickly escalate disputes into violent encounters. This is consistent with Edwards and Newell's (1994) finding that this same group when discharged from the Navy for misconduct violated Article 91--insubordinate conduct--proportionately more often than whites. This finding would suggest difficulties with impulse control, particularly when faced with a hierarchical superordinate authority, whose legitimacy is less than clear. This behavior may reflect a need to maintain personal respect at all costs, particularly when the perceived disrespect is coming from someone outside the group.

V: Research strategy:

The data we have cited above suggest that:

1. African-Americans are over-represented in both NJPs and Courts-Martial.
2. African-Americans are also over-represented in types of offenses committed, particularly so when the offense involves violence.
3. It is not clear whether or not the UCMJ system increases the representation of African-Americans as they proceed through from investigation to disposition.
4. It is not clear what the effect of prior experience with the criminal justice system is on the likelihood of being involved with UCMJ system.
5. It is not clear whether there are predisposing events which lead African-Americans to be given higher levels of NJPs.
6. There is some evidence that African-Americans are differentially affected by usage of the process of plea bargaining.
7. It appears that some African-Americans have a more difficult time adapting to the military environment than some other groups.
8. Training technologies need to be developed to aid some African-Americans to make the transition from a civilian to a military environment.

Using Figure 1 as a guide as well as the findings summarized above, we propose nine studies. Study I addresses the question of overall racial disparities in the UCMJ from arrest to disposition. In design it replicates the work of Wilbanks (1987) with significant additions. Study II looks at the informal labeling system that surrounds the non judicial punishment dispositions. Study III is a proactive effort to reduce the numbers of enlistees who eventually are either given unsuitability discharges or who wind up involved with the UCMJ. While the initial focus will be on the African-American recruit, the technique is generic and might well prove efficacious for all enlistees. Study IV compliments Study III in that we will develop an instruction technique directed at junior grade officers and NCOs who lead the recruits during their initial tenure in the service. Studies V-IX probe into racial disparities at particular points in the UCMJ process with an eye to determining if intervention at those points is feasible. Each study is described in more detail below.<sup>10</sup>

The studies:

**I. Overall disparity in the UCMJ.**

Our contention in proposing this first study is that research examining potential racial disparities in the criminal justice system (e.g., Connally, 1993) have asked the wrong set of questions. They have assumed that each event in the time history of a person's involvement with the UCMJ is independent of all those that have preceeded, a manifestly false assumption. Earlier we demonstrated how such an approach can lead to severe underestimates of the level of disparity, using hypothetical data. In this phase we shall test our assumption using real data. A second contention is that a variable of considerable interest to the offender is the amount of time from investigation to disposition. When that is short, the potential for railroading is great; when it is long, the old saying "justice delayed is justice denied," is germane. In any

<sup>10</sup> It is important to note that no cost estimates are associated with each study. Such estimates are premature until there is agreement on the studies that should be undertaken. Until such agreement is reached, these studies should be viewed as proposals, not final research designs which will be implemented.

case, it is possible that there are racial disparities, produced by the sophistication (or lack thereof) of the offender in dealing with the system resulting in a shorter or longer time until final disposition. These considerations suggest that a survival analysis may be appropriate in clarifying the possible existence of disparities in the system. Both of the analyses being suggested will provide a more reliable indication of disparities, should they exist.

In this study, we will request data from the Clerk of Courts<sup>11</sup> of the various services to provide data on all arrests and subsequent actions for a defined period of time for a certain set of offenses (e.g., aggravated assault, sex crimes, and drug offenses). Each record will be sequentially coded for the following events: investigation, arrest, sent for prosecution, charges dropped, pre-trial agreement, plea, conviction, incarceration. The time between each stage will be noted as well as any ordinal variables associated with the step. In addition demographic information will be coded by matching social security numbers in DMDC databases. We will compute the racial conditional probability at each stage and determine if the Black/white ratio remains constant from arrest to disposition. Since the military system is somewhat different from that practiced in the civilian courts, we shall be particularly alert to any evidence of disproportionate "sifting downward." Such downward sifting might occur if whites are disproportionately shifted to the NJP or Summary Courts-Martial track, leaving African-Americans to deal with General and Special Courts-Martial. A second approach will apply survival analyses (LIFETEST, SAS, 1988) to the total time in the system from investigation to incarceration using race as a covariate. This analysis will allow us to investigate the similarity of the "survival" history in UCMJ system across racial groups.

## II: Labeling and propensity for Article 15s:

As Bell & Holz (1975) suggest, there is some evidence that labeling a soldier as a problem increases the chances of later military delinquency. This remains an untested though important hypothesis. The problem is that data on prior labeling is difficult to capture. A record of the labeling might be had by accessing the so-called "SMIF" (Soldier Miscellaneous Information File) file, which is a company level record of the good and bad things that a soldier does while in the unit. That file may be used to determine whether a given offense merits a summary Article 15 (which does not leave the company) or a full Article 15 which may be inserted in the individual's permanent file. However, most commanders would agree that information in the SMIF file will determine whether the individual is given a light or heavy punishment. Since this decision is discretionary with the commander, the potential for disparate treatment is present. Hence, this study.

We will select at least three brigades, one combat, one combat support, and one service support. In each brigade, we shall visit the company offices and inspect the SMIF files for each person given either a Summary or full Article 15 over the past year. In particular, we shall interview the commanders and senior NCO's as to whether or not they were aware of any problems with the offender at previous assignments and whether that information played a part in their disposition decisions. We shall also want to content analyze the entries in the SMIF file as to type of activity.

We would hypothesize that minority soldier with the same number and type of entries in the SMIF file will receive more severe punishments than similarly situated white individuals. We would further hypothesize that this relationship will be invariant under variation in the race of the commander. Indeed, a case could be made that African-American commanders will levy even more severe punishments to their race peers because delinquent behavior would be seen to reflect on their ability to command.

This study is perhaps the most difficult because of the informal nature of the decisions that we need to investigate. However, given that the trail of decisions which may eventuate in a Court-martial often have

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<sup>11</sup> Alternatively, the data set used by Connelly (1993) may be sufficiently detailed to be used in these analyses.

their origin in the informal ways that the system interacts with the soldier, the study is critical to any understanding of potential disparate effects due to race.

### III. Development of an inoculator for at-risk personnel.

Dansby (1992) and Knouse (1994) have suggested that a training technology called an "inoculator" could be an effective way to prevent otherwise at risk persons from becoming involved with the UCMJ. From a variety of sources, Knouse (1994) extracted a number of potentially conflictual situations and sketched potential scenarios. The quality and representiveness of these scenarios is unknown at this point. But, the set may provide a useful starting point. The Knouse sources can be supplemented by the data from the interviews described in Study VIII (below).

A further source is to develop a theoretical structure which defines the differences in African-American communication style and then devise scenarios around those dimensions. The dimensions of sharing, etc. elaborated in the introduction to this paper provide just such a set. This approach follows Triandis' recommendations for more efficient development of culture assimilator items (Triandis, 1984).

Knouse further suggested that the inoculator be prepared in videotape format. The disadvantage of this approach is that it prevents active participation of the viewer in the selection of an appropriate solution to whatever conflict is depicted. Although many training programs in industry have used this "modeling" approach based on the work of Bandura (1977), it is problematic if equal applicability will be found with personnel coming from lower-class ghetto environments. Indeed, the expressive lifestyle noted by Majors (1989) would argue against the effectiveness of a passive approach to social learning. Furthermore, much of the research on effective cross-cultural training (e.g., Gudykunst & Hammer, 1983) indicates that passive learning is the least efficient in developing the ability to function in culturally different environments. In any case, before any decision on technology can be made, a convincing and realistic set of scenarios must be developed.

An alternative technology would provide the respondent with the opportunity to interact with the scenario and to test out various solutions for appropriateness. Such a technology is provided by the interactive CD-ROM or videodisk (Wilson, 1994; Walsh, Gibson, Vasile, McLain, & Vigus, 1994) format. Until fairly recently the technology was prohibitively expensive. Programming was arduous with few individuals with the requisite capability. Recently, programming tools using object oriented techniques have appeared on the market and hold the promise of bringing the cost within acceptable parameters. As an example, the Briefing Centre of the Canadian International Development Agency, has developed the capability to program CD-ROM and is actively investigating its applicability to the training of overseas personnel. One of the aims of this research thrust is to determine the best technology to deliver the inoculator.

Developing the scripts will not be a trivial process. In a world where people are bombarded with professionally prepared and realistic short video interactions (e.g., in commercials), amateurish presentations are unlikely to be attention getting. Hence, everything about the presentation must be seen as realistic. The scripting is only part of this process. Photography/videotaping must be professional as well as post-production aspects. Aside from the initial draft scripts, the production (either in videotape or CD-ROM) is best left to professional production facilities.

Perhaps the best way to develop the scripts is to use the a priori process described above. Here we would define a set of dimensions around which revolve the major difficulties of accessing African-American men. A mixed race team of writers would then prepare sets of items for each dimension. The teams might also include individuals from outside the service who are familiar with the non-military backgrounds of the targets. Each item would consist of a scenario, a number of possible reactions, and the likely results of those actions.



Once a suitably large (e.g.,  $n \approx 100$ ) set of items has been written and approved, it would be well to contract with a university theater department for the actual production of the vignettes. An appropriate venue would be a program that specializes in improvisational acting (e.g., Northwestern University). The structure for taping each vignette would involve giving each set of actors the outline of the scenario and the objective of the scene. The actors would then improvise the actual interactions. This process is more likely to lead to believable scenes that can be edited into the training materials.

With taping and editing completed, the vignettes can be transferred to either videotape or CD-ROM. Should CD-ROM be the educational medium, then programming will have been completed at about the same time as the taping. Indeed, since delivery via videotape is somewhat cheaper than CD-ROM, but lacks the interactive component, it would be well to carry out a thorough evaluation study before committing to one format or the other. The study would focus on the relative effectiveness of each type of delivery system using three systems: CD-ROM, videotape, and printed format. The latter format, which is the least expensive of all, will be used as a control. Further, since it is possible that the techniques might work better in combination than alone (Landis, Brislin, & Hulgus, 1985), a modified Solomon four-group design would be optimal. The evaluation design structure is:

Group	Pre-test	T <sub>1</sub>	T <sub>2</sub>	Post-test
1	X	CD-ROM	videotape	X
2		CD-ROM	videotape	X
3	X	videotape	CD-ROM	X
4		videotape	CD-ROM	X
5	X	videotape		X
6	X	CD-ROM		X
7		videotape		X
8		CD-ROM		X
9	X			X

This design can be replicated using the remaining two combinations (CD-ROM and print; videotape and print). It should be noted that not only does this design provide for positive or negative interaction effects due to treatment order, but it also controls for the sensitizing effects of the pre-test.

Pre-and post-test measures will include items covering knowledge, anxiety or uncertainty about the military life, and likely behavior in similar situations to those depicted in the vignettes. Though more costly, follow-up assessments involving contact with the UCMJ system are highly desired. A minimum follow-up period would be at least two years.

When the medium is set, production of the vignettes can proceed with distribution to a limited number of field sites. A field evaluation should then be designed and implemented. Of particular interest will be the usability in the field. That is, is the technique being used, or left on the shelf? What is the response of the trainees to the material's ease of use and relevance to their lives? The responses to these questions will be used to fine tune the materials before release to the full military.

#### **IV. Development of a race relations training technique for supervisory personnel: The Intercultural Sensitizer (ICS).**



Perhaps the best researched cross-cultural training technique is the culture assimilator (Fiedler, Triandis & Mitchell, 1971; Landis, et al., 1975; Albert, 1983; Cushner & Landis, in press). The assimilator (or sensitizer) consists of a vignette depicting an intercultural encounter that is problematic, usually involving a misunderstanding by one person in the scenario about the behavioral motivation of the other person. The learner is given a number of possible explanations (usually four) of the behavior, one of which presumes knowledge of the culture of the other person. The other options involve various levels of stereotyping. Selection of an explanation results in the presentation of a rationale as to why the option is appropriate or not. If the selection is "correct," the learner is routed on the next vignette; if not the reason the choice is "incorrect" is explained and the learner is re-routed back to re-read the item and select again.

Although most versions of the assimilator have been in hard copy format, Landis recently developed a PC-based version which compiles a learning history and saves that information to a file. Learners are also given immediate feedback at the end of each learning session indicating how well they did on the items. The object of this phase is to develop and evaluate a computer-based assimilator focused on the interactions between company level supervisors and recently accessed African-American personnel. For convenience we shall refer to the PC-based version of the assimilator as the ICS (Intercultural Sensitizer).

In building an ICS, scenario validity is of paramount concern. That is, vignettes should represent situations that learners can identify as familiar and likely to occur with some frequency. As with the inoculator described above, there are two general approaches to vignette development, both of which use a critical incident technique, the difference being the criterion for accepting an situation. In one case, critical incidents are gathered from a sample of persons selected to be representative of potential learners. All items that meet certain literary criteria are considered for acceptance. The dimensions of differences are induced from the total set. In the second, a set of dimensions is specified beforehand and the item writers develop vignettes around those factors. The latter approach has been found to produce a sufficiently rich pool of situations at a substantial reduction in cost (Triandis, 1984). This study will use an already existing item pool and develop new items as needed using the dimensionalizing approach.

Landis and his colleagues (Landis, et. al., 1975) developed an assimilator for junior grade officers in the Army. The original set of items ( $n=70$ ) was developed in the years immediately following the Vietnam war and at the beginning of the All-volunteer Army. Hence, they may refer to settings and situations which are less relevant today. Nevertheless, the set provides a convenient starting point for development in this project.

Parallel with the editing and revising of the Landis, et. al. 1975 items, a set of dimensions reflecting the major points of conflict between NCO leaders and junior grade officers and African-American enlistees will be defined. We shall restrict ourselves to those conflicts likely to lead to UCMJ involvement. These dimensions will be developed based on the relevant literature as well as interviews with officers and enlisted personnel. We could expect that the identified factors will parallel those produced from the inoculator development.

There are a number of research questions that can be addressed using the ICS. A sampling of such questions would include:

1. Do trained leaders<sup>12</sup> show greater knowledge about the issues being faced by African-American enlistees when compared with leaders not receiving the ICS?
2. Do trained leaders show greater liking for African-American enlistees when compared to leaders not receiving the ICS?

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<sup>12</sup> By "leaders," we mean both senior NCOs and Officers.

3. Do African-American enlistees serving under trained leaders find them to be more effective leaders as compared to African-American enlistees serving under untrained leaders?
4. Does the effect of the training persist past the trained leader's current duty assignment?
5. Do African-American enlistees serving under trained leaders have a lower likelihood of having either Article 15s or Courts-Martial over a fixed periods of time (e.g., 24 months) levied against them when compared with African-Americans serving under untrained leaders.

Further, if we consider the joint effect of the inoculator and the ICS, then several of the research questions listed above can be expanded to explore the possible interactions between the two training approaches. So, for example, research question #2, can be rephrased as:

2a. Do trained leaders show greater liking for African-Americans trained with the inoculator than African-Americans not trained with the inoculator. Both groups would be expected to have superior ratings by trained leaders as compared to either group rated by untrained leaders.

Research question #4 addresses the important issue of the permanence of training. In cross-cultural and race-relations research, this issue has been little studied, primarily because of cost factors. However, the issue is at the core of the effectiveness of such training and it is no less important for the present project

#### V. An examination of the linkage between moral waivers and later military incarceration.

The sample will consist of a data file obtained from DMDC consisting of all personnel currently in some form of detention either at the United States Disciplinary Barracks or at a local facility. Additional data requested on these personnel will include race/ethnicity, gender, AFQT scores and categories, pay grade and rank at conviction, marital status and dependents. MOS at conviction, the presence of a moral waiver on accession, etc. A set of people with moral waivers who are not in confinement will also be drawn with the same information being requested. Finally, two other groups will be drawn: confinees who did not have waivers and a control matched group of personnel who are neither in confinement nor received moral waivers. So, the sample will look like the following:

<u>Waivers:</u>	<u>Confinement</u>	
	<u>Yes</u>	<u>No</u>
<u>yes</u>	Group 1	Group 2
<u>no</u>	Group 3	Group 4

This study will extend the investigations of Flyer and colleagues (e.g., Flyer & Curran, 1993) who found a relationship between prior offense and later military delinquency. However, Flyer & Curran did not hold constant the type of prior offense as well as a number of other variables (indeed, their studies have not, apparently, held any possible confounding variables constant). Here, we will construct two discriminate function equations, one for each race (blacks vs. non-blacks). Dependent variables will be placement in one of the four waiver/confinement groups; independent variables will include the variables listed above.

## VI. Racial disparities in plea bargaining.

Robinson (1993) and Connelly (1993) have reported, noted earlier, that African-Americans will plea bargain less often than whites. However as Newman (1956) noted, there are many kinds of plea bargains and it is unclear which is the modal form in the UCMJ. Bargaining concerning the sentence, for concurrent charges, and for dropped charges are all types of plea bargains. Differential use of plea bargains could easily lead to disparities in penalties. The purpose of this project will be to investigate a) if racial differences in plea bargains exist and b) if they do, are there resulting disparities in type and length of sentences.

Plea bargains can also occur which remove an offense from the level of court-martial to that of NJP. Hence, an examination of this discretionary action must not be limited to the courts-martial, but be expanded to include all of the UCMJ system. The problem is how to capture the relevant data. Within the court-martial records, it is possible to assume plea bargains when a) a plea of guilty is entered and b) the number or severity of charges convicted upon is less than the number or severity charged. However, the findings of Robinson and Connelly result in a non-linear effect on the length of sentence. The whites that accept plea bargains would tend to receive shorter or a suspended sentences. The African-Americans who do not accept a plea bargain, for whatever reason, would receive a longer mean sentence than those whites who did. The whites who did not accept a plea bargain would receive a longer sentence, either because of the seriousness of their offense or as a result of the "jury tag." Including all of these groups, we predict would result in a situation in which the racial means are approximately equal, but where there are distinct subgroup means which are not.

There are three locales in which relevant data might be available bearing on plea bargains: a) records at the U.S. Disciplinary Barracks at Ft. Leavenworth, b) from the National Records Center where the case files of closed cases are kept and c) the Criminal Investigations Center. With regard to (a), the Knouse (1993) data do not indicate plea bargains, so that a visit to Ft. Leavenworth will be necessary to cull the relevant data from interviews with a sample of currently incarcerated offenders. Of course such data may be biased, but it will provide the perceptions of fairness from those most directly affected by the plea bargaining process. The Clerk of Courts of the Army has assured us that data on plea bargains is available at the National Records Center. The downside is that such data is in hardcopy form and will need to be extracted. We will need to query the investigations center<sup>13</sup> to determine what is in their files. In any case, given that well over half of offenders engage in some kind of plea bargains, the discretionary aspects to the process would have the potential to result in racial disparities.

## VII. Relationship between unit climate and level and type of NJPs.

Units requesting the Military Equal Opportunity Climate Survey (MEOCS) will be requested to also provide information on the nature and disposition of each offense as well as offender characteristics for all NJPs occurring over a fixed period of time. The analyses will test for racial differences, both offender and commander, in type of NJP and type and severity of adjudication. Further analyses will correlate MEOCS factor scores with NJP type and adjudication variables.

This effort, if successful, will provide insight on the relationship between the equal opportunity climate of a unit and the level of delinquency. Further, it may well be that the frequency of NJPs directed at minority personnel will be related to only a part of the climate measured by the MEOCS. For example, we might expect that NJPs will be a function of the frequency of differential racial behaviors, but not sexual discriminatory actions.

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<sup>13</sup> Dr. Eli Flyer is developing a project under DA sponsorship that will involve access to these hardcopy records and he has volunteered their use for our projects.

### **VIII. The attitudes and actions of military police toward offenses committed by African-Americans and whites.**

Petersilla (1983) and others (e.g., Norris, Fielding, Kemp, & Fielding, 1992) have demonstrated that police tend to believe that African-Americans and other minorities are more likely to be involved in criminal activities as compared with whites. The use of "profiles" which link race to type of car in a particular location (e.g., 195 in Florida) is but one example. However, this phenomenon has not been examined in the military situation. Given that the number of "stops" has been found to be related to later involvement with the criminal justice system, the beliefs and attitudes of the military police are a crucial link in this process. The Bell & Holz, 1975 finding on self-fulfilling prophecies is quite relevant in this context. Hence, this project will develop and administer a racial attitude inventory to a sample of military police officers across the services. The survey will be modeled on the MEOCS with the addition of the modern and traditional racism scales (McConohay, 1986) in place of the Modified RAPS scales. In addition, the survey will present a number of scenarios involving African-American and white soldiers in situations that could be interpreted as warranting further investigation. Some of these will involve stereotypes (e.g., an African-American driving a new and expensive car). The aim of this project is to probe the existence of a) negative stereotypes of African-American military personnel by military police and b) the extent to which those stereotypes affect practice.

A second effort will attempt to replicate in a military setting the civilian data (e.g., Norris, Fielding, Kemp, & Fielding, 1992) showing that people of African extraction are 2-3 times more likely to be stopped than are whites. Here we will examine the police logs for a randomly selected set of days on a sample of bases and posts. The data will be coded for race of person stopped, probable offense, demeanor of person when stopped, and, if in an automobile, model and make of car, and time and place of stop. Since the sample will be random and pre-determined, data integrity should be satisfied.

### **IX. Predisposing events for NJPs.**

The purpose of this thrust is to determine if there is a set of underlying themes in the event history for a sample of NJP offenders. If these events can be identified, then they could be used as the basis of an "inoculation" procedure (Knouse & Dansby, 1993) to either prevent their occurrence or to eliminate the link with NJP offenses. This will require that a set of structured interviews be conducted with personnel already "convicted" of a variety of NJPs. For convenience, a fairly large base/post will be the interview venue. A random sample of offenders (n=20) will be drawn. Half of the sample will be African-American and half will be white. Each will then be interviewed for about an hour using a structured interview focused on the critical events leading up to the offense. The aim is to obtain an ethnography which can then be content coded at a later time. In addition, the narratives can be used as the basis for inoculator or ICS (see below) items.

### **VI. Summary .**

This report has documented a well-known phenomenon: African-Americans are over-represented in every part of the military justice system. Merely pointing this out begs both the question of etiology and that of importance. By "importance" we refer to the issue of comparative disparities both in an out of the system. The issue of importance has yet to be settled. Additionally, as we have seen, there are a number of possible explanations of the disparities that seem to exist. These explanations range across all possible causations. At one end is the proposition that African-Americans come into the service with an inability to conform and a willingness to seek illegal means to attain money or goods. At the other end are theories that would place the primary agents in the military justice system itself which encourages stops by military police for

flimsy reasons and targeting of minority personnel. Whatever the ultimate reason, programs to maximize the socialization of African-Americans to the service should reduce the number becoming involved with the UCMJ system. However, those programs should not be accepted uncritically; research on effectiveness is necessary to maintain credibility and usability. Studies addressing the issues in this document require multi-year commitment and substantial funding. To do less is to continue to simply decry the present situation and leave it only to fester.

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